

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DONALD HALL,

:

Petitioner, : Case No. 1:02-cv-488

-vs- : Judge Spiegel

CHRISTOPHER YANAI, Warden, : Magistrate Judge Hogan

Respondent. :

**PETITIONER-APPELLANT DONALD HALL'S MOTION
FOR APPOINTMENT OF COUNSEL**

On June 21, 2005, this Court denied Petitioner-Appellant Donald Hall's Petition for Writ of Habeas Corpus. A Notice of Appeal and Motion to Proceed In Forma Pauperis were timely filed. The June 21, 2005 Opinion & Order, denying Mr. Hall's Petition for Writ of Habeas Corpus, granted him a certificate of appealability. Furthermore, this Court certified that any appeal of the June 21, 2005 Order would be taken in good faith. Mr. Hall now requests that this Court appoint the Office of the Ohio Public Defender to represent him on appeal. Mr. Hall's indigence is demonstrated by his history of living in a mental hospital from the ages of seven through twenty-five, and his continuous incarceration for the past twenty-four years.

Counsel must be appointed for indigent federal habeas petitioners when the interests of justice require it. 18 U.S.C.A. § 3006A(a)(2)(B). Determining whether justice requires the appointment of counsel involves an evaluation of factors "such as likelihood of success on merits, complexity of legal issues raised by complaint, and ability of indigent petitioner to investigate and present case." *Shaird v. Scully*, 610 F.Supp. 442, 444 (1985, S.D.N.Y.).

As set forth in Mr. Hall's Motion to Proceed In Forma Pauperis, the interests of justice require an appointment of counsel. Due to the complexity of the legal and factual issues that must be addressed, as well as Mr. Hall's severe comprehension deficits, counsel must be appointed in order for Mr. Hall to pursue an appeal. Based on Mr. Hall's history and current status, he asks that this Court grant his request to appoint the Office of the Ohio Public Defender as appellate counsel.

Respectfully submitted,

DAVID H. BODIKER - 0016590
Ohio Public Defender

s/Katherine A. Szudy
KATHERINE A. SZUDY - 0076729
Assistant State Public Defender
COUNSEL OF RECORD

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COUNSEL FOR PETITIONER
DONALD HALL

CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2005, a copy of the foregoing **PETITIONER-APPELLANT DONALD HALL'S MOTION FOR APPOINTMENT OF COUNSEL** was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access the filing through the Court's system.

s/Katherine A. Szudy
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Assistant State Public Defender

COUNSEL FOR PETITIONER
DONALD HALL

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